

COMMONWEALTH OF PENNSYLVANIA COUNTY OF YORK

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PRESS RELEASE

FROM: TOM KEARNEY

**TO: SPRINGETTSBURY POLICE DEPARTMENT POLICE CHIEF THOMAS HYERS
SGT MATTHEW NICKEY, PENNSYLVANIA STATE POLICE, HARRISBURG BARRACKS**

CC: MEDIA
ATTORNEY CHRISTOPHER FERRO
ATTORNEY BRIAN PERRY

DATE: OCTOBER 4, 2013

Re: Investigation of alleged Police Misconduct involving Steven E Landis

This investigation was initiated upon request of the author after allegations surfaced that members of the Springettsbury Township Police assaulted Steven E Landis during his arrest. It was conducted by Sgt. Matthew Nickey from the Harrisburg Barracks of the Pennsylvania State Police. The purpose of the investigation is to determine whether criminal charges should be filed against member(s) of the Springettsbury Township Police Department. For the reasons hereinafter stated, it is the opinion of the District Attorney that criminal charges are not appropriate.

SYNOPSIS:

On 08/05/12 at approximately 2322 HRS Officer MOYER was patrolling Eden Road (Springettsbury Twp.) when he encountered a pedestrian later determined to be Steven LANDIS. Officer MOYER approached LANDIS and ultimately conducted a warrant check on him. After finding there was a valid warrant from earlier in the day (Northern York County Regional PD, domestic assault related) MOYER attempted to take LANDIS into custody. A physical struggle ensued between MOYER, LANDIS, and Officer POLIZZOTTO (arrived as backup). LANDIS was ultimately taken into custody and turned over to Northern York County Regional PD.

MATERIALS REVIEWED:

1. One (1) compact disk (CD). Mobile video recorder footage from Springettsbury PD patrol vehicle.
2. One (1) compact disk (CD). Contains all five (5) recorded interviews.
3. Springettsbury Township Police Department report and attachments for incident #2012-0806-M0001.
4. Northern York County Regional Police Department report and attachments (photos) for incident #2012-0805-M0067.
5. Medical record (and release) for Dr. BARR's office (patient: Steven LANDIS).
6. Medical record (and release) for Memorial Hospital (patient: Steven LANDIS).
7. Medical record (and release) for Dr. CHERRY (patient: Steven LANDIS).
8. Three (3) property records listing evidence held in secure PSP custody.
9. A copy of the lawsuit filed by Boyle Litigation on behalf of Steven LANDIS.
10. A copy of Memorandum and Order regarding the lawsuit filed by Boyle Litigation (attachment #9).
11. A copy of the Pennsylvania Municipal Police Officers' Education and Training Commission (MPOETC) curriculum for "Use of Force in Law Enforcement."
12. A copy of MPOETC training records for officers MOYER and POLIZZOTTO.
13. Written opinion of Sgt. Charles MORY (PA State Police Academy Instructor) with attached resume'.
14. Criminal Docket 6530-2012, Steven LANDIS.
15. Criminal Docket 6714-2012, Steven LANDIS.
16. Criminal Docket 7459-2012, Steven LANDIS.
17. Transcript of proceedings for criminal dockets 6530-2012, 6714-2012, and 7459-2012.
18. Order for Criminal Docket 6530-2012
19. Plea and Sentence for Criminal Dockets 6714-2012 and 7459-2012.

INTERVIEWS:

Interviews were conducted by the Pennsylvania State Police investigator of those parties present that evening. All requested parties cooperated, including Mr. Landis and the police officers involved.

STEVEN E. LANDIS:

STEVEN LANDIS related that on the night in question he was involved in an altercation with his wife (Shelby LANDIS). He admitted that during that altercation he pulled her hair. LANDIS believed that he may have choked her but he does not know for sure. He related that he later pled guilty to simple assault as a result of charges filed by Northern York County Regional PD.

LANDIS also remembered that his wife left their house after the altercation and that he followed her in his vehicle. He recalled that his wife went to the southern end of York to talk to one of her friends. He explained that he followed her to make sure the kids were ok (they were with her in the car at the time; they were 7 and 10 years of age at the time of the incident). LANDIS related that he later drove to his sister's residence (about 2000 HRS).

At his sister's house LANDIS remembered that he knocked and rang the doorbell but his sister (Roxanne Schroeder) did not answer. He related that his sister lives about 1 mile from where the encounter with Officer MOYER occurred. LANDIS explained that he started walking home from his sister's residence.

LANDIS remembered he was walking home when Officer MOYER (Springettsbury PD) came upon him and placed his spot light on LANDIS. LANDIS also believed that MOYER had his emergency lights on but later indicated that he was not sure and did not remember if they were on or not.

LANDIS explained that it had just started to rain. Officer MOYER approached LANDIS and asked if he could take him anywhere. LANDIS related that he found Officer MOYER helpful and decent up till this point. He pointed out that MOYER was asking him "decent questions" about where he was going, etc.

LANDIS indicated that MOYER then asked if he could have LANDIS's license (later in the interview LANDIS related that he offered MOYER his license). LANDIS stated that MOYER checked for warrants and found there was a warrant for LANDIS. LANDIS denied that he had any prior knowledge of this warrant. Later the investigator asked LANDIS if he had any concern that the officer would know about or find out about the altercation he had with his wife earlier in the night. LANDIS denied that he was worried. Later the investigator asked LANDIS if he had overheard Officer MOYER's radio when dispatch told him there was a warrant for LANDIS. He replied that he had not heard the radio.

LANDIS related that MOYER told him there was a warrant out for his arrest. LANDIS stated that he replied by saying "that's ridiculous." LANDIS said that he heard Officer MOYER tell him to put his hands behind his back. LANDIS was asked if he complied and put his hands behind his back. He replied "no, I had started to. What I did first, I put my hands above my head." The investigator asked why he put his hands above his head despite the command to

place them behind his back. LANDIS replied that he did not know why. LANDIS was asked if there was a reason why he didn't put his hands behind his back like Officer Moyer asked him to. LANDIS replied no, there was not.

LANDIS recalled that MOYER grabbed one of his arms, then picked LANDIS up and threw him to the ground. The investigator asked LANDIS if he reacted to MOYER grabbing his arm. LANDIS claimed that he had no chance to resist arrest and did not pull away. He was simply taken to the ground immediately.

LANDIS described that MOYER then "flipped." He alleged that MOYER threw him down to the curb and beat him with his knee to the point that LANDIS ended up with 24 contusions and 5 broken ribs. He stated that he did not have any injuries prior to his contact with MOYER. LANDIS believed that Officer MOYER "lost it" and was trying to "teach him a lesson." LANDIS said the police are not supposed to teach you a lesson but should've helped him rather than hurting him.

LANDIS stated that he could not breathe (as a result of the pain). He recalled that MOYER was ordering him to put his hands behind his back. He also remembered hearing Officer MOYER say he was going to fuck LANDIS up.

LANDIS described that he was lying on his stomach with his right arm under his body and his left arm out above his head. LANDIS's attorney (Devon JACOB) interjected and attempted to correct LANDIS on this point. There was quite a bit of confusion in the interview as LANDIS attempted to recall which arm was under him and which was out in front of his body.

LANDIS then explained that MOYER was trying to get his left hand out from under his body to cuff him. He related that the police tasered him two times when they were trying to figure out how to get his arm out from under him. He stated that his arm was trapped by his body weight and the weight of the officers.

LANDIS was asked if he was trying to get his arm behind his back. He replied, "All I was trying to do was to get the pain to go away." The investigator again asked LANDIS if he was trying to comply by placing his arm behind his back. LANDIS paused for a long time and looked at his attorney as if seeking an answer. LANDIS then explained that it happened very quickly and he just doesn't know the answer.

The investigator then asked LANDIS if he tried to put his other hand behind his back. His attorney interjected again. It was apparent to this author that LANDIS was confused about exactly where his arms were during the altercation. LANDIS also claimed that he was not handcuffed while on the ground. He then thought maybe he had one handcuff on while sitting on the curb and that the other one was placed on him back at the police vehicle. The investigator then asked if he was sure about that and he replied yes.

The investigator then asked if he eventually ended up sitting on the curb. LANDIS again looked to his attorney for an answer. He then related that he did not remember. He then related that as he sat on the curb he knows he didn't have two handcuffs on but that maybe he had one on. He indicated that the officers put the other cuff on back at the car where they roughly pushed him into the car (slammed his head into the police car).

LANDIS was asked if he walked under his own power back to the police car. LANDIS replied that yes, he was walking the best he could in spite of the pain. The investigator asked LANDIS again if the officers placed the handcuffs on his other hand back at the patrol vehicle. LANDIS then related that he should not answer because he does not remember. He did not know where the cuffs were actually applied. Note: The video appears to show that LANDIS is handcuffed while lying on the ground, prior to sitting on the curb or walking back to the police vehicle.

LANDIS added that he lost one (of his 2) hearing aids during the scuffle. LANDIS related that he heard very little after this point because his hearing aid was not in his ear. LANDIS was not sure exactly how his hearing aid came out during the struggle.

LANDIS related that he was ultimately taken to the booking center. He was able to post bail and get out the next morning. His sister picked him up. LANDIS indicated that he told his sister that he was beat up by a policeman. He then went to his brother-in-law's house (Mike Hoover) during his recovery. LANDIS related that he is separated from his wife and that they are currently working toward divorce.

LANDIS indicated that he was hospitalized for 5 days "mostly because of the way I was beat up. It was because of the way I was beat up. There was no other, uh, choice." LANDIS related that he had no idea initially that his ribs were broken but could tell that something hurt badly. LANDIS implied that he was not resisting the arrest, but his arm was merely trapped by his body weight.

The investigator inquired of LANDIS about his prescribed medications. He related that he takes medication for anxiety (Paxil) and that is all he took on the date in question. When asked if he took the medication as prescribed LANDIS indicated that he was supposed to take it during the day but he took at night (because it made him drowsy). LANDIS denied consuming other drugs (illegal or prescribed) or alcohol that night. He also related that he is diagnosed with Huntington's disease (discovered after this incident). LANDIS described that a symptom of Huntington's disease is that it can cause angry reactions. He stated that he now takes medication for this disease.

The investigator also asked LANDIS about his pre-existing back injury. LANDIS related that he broke his back when he was in his 30's (he fell off a roof). LANDIS stated that when he initially had pain on the night in question, he thought it was his back. He later realized that he could not breathe due to the pain and that something else was wrong.

SHELBY C. LANDIS:

Shelby is the estranged wife of Steven LANDIS. She indicated that she and Steven are currently in the process of obtaining a divorce.

Shelby indicated that on the date in question (08/05/12) she and Steven got into an argument at their mutual residence. She remembered that this occurred around 4 or 5 PM (as she was making dinner for her 2 children (son; 7 years of age at the time, and daughter; 10 years of age at the time of the incident)). Shelby told the investigator that the argument started because she wanted to go out to dinner with some friends (without Steven). When she told Steven this he got angry

and accused her of cheating on him.

Steven then attempted to grab her phone off the counter. Shelby assumed that he was trying to see who she had been speaking with. When he did this, the phone fell onto the floor. Shelby related that she bent over to pick it up. At that point she remembered that Steven grabbed her.

She described that Steven attacked her by grabbing her around the neck and pulling her to the floor. They were initially both on their backs with Shelby on top of Steven. She indicated that Steven then rolled her over onto her stomach and grabbed the back of her head by the hair. She recalled that she was able to escape him briefly and yelled for her children to call 911. Her children came in and tried to stop Steven to no avail. Shelby then described that Steven grabbed her hair again (this time in the dining room). Steven then got off of Shelby and approached their daughter. At that point Shelby related that she ran out of the house. Her son and daughter soon followed her. They all got into her vehicle and drove away.

Shelby stated that she attempted to go to a shelter which she was aware of in York but Steven followed her and so she decided not to reveal the location of the shelter to him. Instead, she decided to drive to a police station. During the drive she called 911. She related that she ended up at the York Township Police Department. When she arrived at the police department, Steven stopped following her and continued on. She also described that during this "chase" Steven was not driving aggressively, but simply following her wherever she went. She estimated that he followed her for approximately 15 minutes.

At the police station she was put in contact with Northern York Regional police department (NYRPD). She met with them and provided a statement. She believed that NYRPD obtained an arrest warrant for Steven based off of the information she had provided them. She then started driving toward a friend's house because she thought it would be safe. When she got close she saw Steven driving by the residence so she did not stop.

Shelby recalled that Steven did a "U turn" and began following her a second time but this time her friend was also following her (they had met up earlier at the York Township Police Department). She related that this time Steven drove more aggressively by passing her friend, repeatedly slamming his brakes, running her friend off the road, etc. At some point during the pursuit, Steven simply pulled around Shelby and stopped at a red light. When Shelby came to the red light, Steven then got behind them again and so she drove to the York State Police barracks where Steven again stopped following her. She did not see Steven again until their PFA hearing (she filed for the PFA the Monday after this incident).

Later in the interview the investigator asked Shelby if she had been fighting back during this altercation. She related that she was fighting back as much as she could. She indicated that Steven is only about 5'08" tall and 165 lbs. but that he is very strong for his size. The investigator also asked Shelby to more carefully describe how they landed on the ground when Steven pulled her down. She indicated that they did not land extremely violently or on Steven's back, but it wasn't a gentle movement either. She pointed out that Steven isn't a large man and that she is not a small woman.

Later, after the recorded interview was over the investigator reported that he asked Shelby if she believed it was possible that Steven received injuries that night from his altercation with her.

Shelby indicated that obviously she could not know for sure but that it was certainly possible. She indicated that when she first heard that Steven had broken his ribs (at a PFA hearing) she had assumed that it had occurred during their altercation (since she did not know about the altercation he had with police at that point).

Shelby stated that this incident was not the first time that she and Steven had an argument or fight. She recalled that they had been in counseling and were “fired” by their counselor because he indicated that he could not help them. She indicated that Steven had actually sold his wedding rings in June (2012). She also related that Steven had cornered her and intimidated her in the past (she recalled that the last time was July 2011) but to a lesser extent than the night of 8/05/12.

Shelby indicated that Steven did not consume illegal drugs or alcohol on the date in question. She related that he was prescribed a prescription medication (anti-depressant) for his “Doctor Jekyll / Mr. Hyde kind of behavior.” Whenever Steven would act aggressively, Shelby indicated that she would suspect that he was not taking his anti-depressant medication. She was unaware as to if Steven had taken his medication on the date in question.

Shelby felt that if Steven had stopped taking the medication cold turkey instead of weaning himself off, it would make his reaction more severe. The investigator asked if any financial or insurance limitations had kept Steven from getting his medication. Shelby answered that on the date in question Steven had 4 bottles at the residence and so his medication was available if had chosen to take it.

Shelby related that Steven had 50% hearing loss in both ears (genetic). He wore hearing aids in both ears. She related that even with the hearing aids, his hearing was not normal (he would still misunderstand what you were saying sometimes). Without the hearing aids, he could barely hear at all. She also related that Steven broke his back years ago (before they met) and had back pain.

She also stated that Steven had never been diagnosed with depression. He was given the anti-depressant to help with his mood swings. They were told by a doctor (not the family doctor) that Steven may be bi-polar however, they never followed up by seeing a psychiatrist, Steven was never officially diagnosed as bi-polar, and never obtained the medication for that disorder (very expensive). Instead, he continued to take anti-depressants. His family doctor had disagreed and indicated that there was nothing wrong with Steven (referring to the possibility of bi-polar disorder).

Shelby related that family members had noticed that Steven had some odd, jerky movements (she had not noticed because she saw him every day). She related that after this incident, Steven was diagnosed with Huntington’s disease.

The investigator asked Shelby if she had seen the video of Steven’s arrest by Springettsbury PD on the night in question. She related that she had. She was asked opinion of what she saw. Shelby replied that she thought it looked to her like Steven resisted arrest. To her, it appeared that Steven pulled away from the officer. I asked her why she thought Steven would do that. She replied that Steven was routinely not willing to admit any fault or accept responsibility for anything that went wrong in his life. She described that he felt that everyone around him was crazy or were doing things to cause the problems in this life.

**OFFICER STEPHEN E. LEBO – NORTHERN YORK COUNTY REGIONAL POLICE
DEPARTMENT (NYCRPD)**

LEBO indicated that on the night in question he was working an 11:00 p.m. to 7:00 a.m. shift. During this shift LEBO related that he rode alone in a patrol vehicle (no partner). Shortly after coming on duty he was advised by his patrol Sergeant (Sgt. Gearhart) that Springettsbury Police Department had apprehended Steven LANDIS. LEBO was also told that LANDIS was wanted by NYCRPD for a domestic assault that occurred earlier in the day.

LEBO related that at 11:40 p.m. he met the Springettsbury PD officers (MOYER and POLIZZOTTO) at the Sheetz on Arsenal Road (Manchester Township) in order to transfer custody of LANDIS. The officers told LEBO that LANDIS had resisted arrest but did not give further details to him. LEBO stated that when the Springettsbury officers got LANDIS out of their patrol vehicle he observed some injuries to the side of LANDIS's face. He characterized the injuries as "non-serious" abrasions on his upper cheek/temple area (right side). LEBO indicated that he offered medical attention to LANDIS but LANDIS declined. LEBO related that he did not see any other injuries on LANDIS. He indicated that LANDIS did not complain of any other injuries at that point.

LEBO remembered that he then placed his own handcuffs onto LANDIS and placed him in his NYCRPD patrol vehicle. He then transported LEBO to York County Central Booking (his records indicated that it was a 5 minute / 3 mile trip). They arrived at booking at midnight. During the trip, LEBO recalled that LANDIS complained of back pain. He also remembered that LANDIS stated that the pain was from a pre-existing (14 year old) work related injury and that when he is in cramped quarters (patrol vehicle) it starts to bother him.

LEBO related that at the booking center LANDIS was turned over to York County Sheriff's Deputies. After this was accomplished, LEBO heard the deputies ask LANDIS if he required medical attention. LEBO indicated that he heard LANDIS reply that he did not. LEBO related that he then started to depart the booking center when he learned from a fellow officer that LANDIS may have been tasered (by Springettsbury PD).

LEBO indicated that he walked back to LANDIS and asked him to remove his shirt. LEBO related that he checked LANDIS for Taser injuries but did not observe any on his chest or back. He also noted that he did not see any other injuries on LANDIS'S chest or back. LEBO also indicated that he asked LANDIS if he recalled being tased. LANDIS replied that he did not remember that occurring.

LEBO related that when LANDIS removed his shirt he complained of left side rib pain. LEBO indicated that he did not see any visible injury to LANDIS's ribs at that time. LANDIS then told LEBO that he believes his rib(s) were injured when he was taken to the ground (by Springettsbury officers).

LEBO indicated that he informed his Sergeant (Gearhart) of the injuries and complaint of pain. NYCRPD then took photos of LANDIS to document injuries. LEBO related that those photos would still be available for this investigation. LEBO then left the booking center. Officer LEBO

did not have anything further to add.

As part of a follow-up inquiry, the investigator later contacted Officer LEBO by phone and asked him what he and the other officers had been talking about at 27:44 minutes of the Springettsbury patrol vehicle recording. He indicated that he had been asking the officers about the injuries he observed to LANDIS's face. He was inquiring as to whether they were from the Officer or from the earlier domestic that LANDIS had been involved in. It was his impression that the Springettsbury officers indicated that the injuries were from their altercation with LANDIS.

OFFICER WILLIAM POLIZZOTTO - SPRINGETTSBURY TOWNSHIP POLICE DEPARTMENT:

POLIZZOTTO indicated that he has been working for Springettsbury Township Police Department for about 12 years (11 years at the time of this incident). He has been in law enforcement for a total of approximately 17 years. He has been trained as a K9 officer for the past 11 years. He recalled that he was working the midnight shift (2200-0600 HRS) on the night in question. He was accompanied by his K-9 "Petro."

POLIZZOTTO related that there were three officers working for the Township that night (Officer LEER, Officer MOYER, and he). He remembered that he was doing paperwork in a parking lot when he heard Officer MOYER call out (via radio) that he had encountered a subject on Eden Road. POLIZZOTTO commented that he could immediately tell by the tone of Officer MOYER's voice that he should respond to back him up. When he heard Officer MOYER actually ask for backup, Officer POLIZZOTTO increased his response speed.

While Officer POLIZZOTTO was responding he heard Officer MOYER run Steven LANDIS's name over the radio. The radio communications made it clear that LANDIS was a wanted person for an assault that had occurred in NYCRPD's area earlier in the night.

POLIZZOTTO stated that he arrived on scene and approached with his K9 "Petro." He described the scene as poorly lit with residential homes well over $\frac{1}{4}$ to $\frac{1}{2}$ a mile away. As he approached Officer MOYER and Steven LANDIS he heard MOYER tell LANDIS there was a warrant for his arrest and to put his hands behind his back (several times).

POLIZZOTTO related that as MOYER grabbed LANDIS's right wrist LANDIS tensed up, pulled away from MOYER, and put his hands into the air. POLIZZOTTO then saw Officer MOYER perform a leg sweep and take LANDIS to the ground. POLIZZOTTO indicated that MOYER attempted to control the top half of LANDIS's body so he attempted to control his legs (which were flailing around) by sitting on them. POLIZZOTTO indicated that his intent in sitting on LANDIS's legs was to control him and prevent him from being able to stand up.

POLIZZOTTO described that LANDIS was on his stomach with his left arm out in front of his body and his right arm under his body concealed near his waistband. POLIZZOTTO articulated that he was concerned with the concealed arm since he was not aware if LANDIS had been searched or not (possible weapons).

At that point POLIZZOTTO observed MOYER deliver a “compliance strike with the knee to his [LANDIS’s] side.” POLIZZOTTO later described that LANDIS reacted by gasping and saying something similar to “that hurt.” He then remembered that he and Officer MOYER were able to get his handcuffs on LANDIS’s left hand but were still struggling to get control of his right arm. POLIZZOTTO pointed out that his K9 was sitting beside them the entire time. POLIZZOTTO continued to pull on LANDIS’s right arm to physically get LANDIS handcuffed.

POLIZZOTTO pointed out that he had information (via the earlier radio communications) that LANDIS had simple assault and unlawful restraint charges against him. In his mind that meant that LANDIS had a propensity for violence. Therefore, he indicated that he was not taking the situation lightly.

POLIZZOTTO then told MOYER that he was going to deploy his taser. He described that he removed the cartridge from the taser (placing it in drive stun mode) and used it on LANDIS’s buttocks. He then heard MOYER tell him that the taser was affecting him as well. In response, POLIZZOTTO moved the taser lower on LANDIS’s body. POLIZZOTTO related that he only pulled the taser trigger one time (5 second burst) while engaged with LANDIS.

Later, the investigator pointed out that the taser download indicated that the taser was used twice on the date in question. POLIZZOTTO responded that he does perform a spark test every day and that the other discharge would have been that spark test. POLIZZOTTO indicated that his purpose in using the taser was pain compliance to get LANDIS under control. Eventually they were able to pull LANDIS’s right arm free and get it handcuffed. They then sat LANDIS up on the curb.

The investigator asked POLIZZOTTO why he had told LANDIS - put your arm behind your back or you’ll get it again – after he used his taser. POLIZZOTTO explained that the warning was used because the officers were still trying to gain control of LANDIS at that point and get him handcuffed.

The investigator also asked POLIZZOTTO why he had told LANDIS - if you act up you’re going to get bit. POLIZZOTTO replied that he was giving LANDIS a warning that the dog could be used if he continued to resist. POLIZZOTTO pointed out that his department policy requires a warning prior to deploying the K9.

POLIZZOTTO continued by relating that he secured his K9 in his vehicle and re-approached LANDIS. He related that he only observed one injury on LANDIS - a small abrasion above his left eye. POLIZZOTTO did not hear LANDIS complain of any additional injuries at that time. POLIZZOTTO explained that later in their interaction, LANDIS did complain of a pre-existing back injury.

Officer POLIZZOTTO indicated that they then made arrangements to turn LANDIS over to Northern York County Regional PD (NYCRPD, Officer Lebo) at a nearby Sheetz Convenience Store. Since LANDIS had been combative, POLIZZOTTO followed MOYER as they transported LANDIS to the Sheetz. He was then turned over to NYCRPD.

Later in the interview the investigator asked POLIZZOTTO if his K9 “Petro” took any part in this altercation. He replied that he did not. POLIZZOTTO was asked if he gave his dog

commands to take part and he replied that he did not. The investigator asked if POLIZZOTTO gave commands to his dog to keep him from taking part and he replied that yes, he had.

The investigator also asked POLIZZOTTO if he thought that the position of LANDIS relative to the curb prevented LANDIS from complying with orders to put his hand behind his back. POLIZZOTTO replied that he did not think so. The investigator asked him why he felt that way. He replied that LANDIS's verbal resistance implied that he did not want to comply. Additionally, POLIZZOTTO explained that LANDIS pulled away and physically resisted efforts of the officers to get his arm behind his back.

POLIZZOTTO related that he had a microphone on for the car's camera system, but that it was not activated during this encounter. He did not remember why it was not on. Any audio that was picked up from Officer POLIZZOTTO would have been picked up from Officer MOYER's microphone.

The investigator asked if POLIZZOTTO recalled a conversation at the Sheetz that can be heard very faintly in the recording. I explained that it appeared that Officer LEBO said, "That's pretty, is that new?" It then sounded like Officer POLIZZOTTO said, "a little bit." Finally, it sounded as if Officer MOYER said, "It's about 20 minutes old." POLIZZOTTO indicated that he could not recall that conversation and therefore could not tell what it referred to.

The investigator also asked about a conversation that can be heard between MOYER and POLIZZOTTO about whether or not to charge resisting arrest. The investigator explained that that conversation is cut off when the audio is suddenly turned off. POLIZZOTTO was asked who turned it off and POLIZZOTTO replied that MOYER had. The investigator asked why he thought MOYER had done that and POLIZZOTTO replied that he did not know but speculated that it was because the prisoner was gone at that point. The investigator then asked how the rest of that conversation had gone down and he replied that most of the conversation was contained on the audio. POLIZZOTTO explained that the discussion was whether to file the resisting charges now or later (not as to whether to file at all). He added that he has no doubt in his mind that LANDIS resisted arrest.

OFFICER CHAD R. MOYER - SPRINGETTSBURY TOWNSHIP POLICE DEPARTMENT:

MOYER indicated that he has been working for Springettsbury Township Police Department for about 5 years (4 years at the time of this incident). On the night in question MOYER recalled that he was working the midnight shift 10:00 p.m. to 6:00 a.m. He was operating a marked patrol unit and in full uniform and was patrolling (not responding to a specific call). He related that there were 3 officers working for Springettsbury Township PD that night (Officer POLIZZOTTO, Officer LEER, and himself).

MOYER remembered that he was driving on Eden Road in an industrial, non-residential area. He described the area as dimly lit (no sidewalks or street lights). He recalled that he observed an individual walking down the middle of the road and found it strange (no residential homes, no open businesses, etc.). He then stopped to check on the person and to see what they were doing. He activated his spot light and his overhead emergency lights (since it was a dark area, on

a curve, with the chance of rain) as a safety precaution.

MOYER related that the in-car camera automatically activates when the emergency lights are turned on. The system is also set up to capture the 2 minutes of video immediately prior to the lights being activated. He also indicated that the audio automatically begins after the video is initiated. I asked MOYER why I cannot see his emergency lights flashing in the video. He replied that he may have set them to only flash to the rear. MOYER indicated that when he turned on his lights, the male (whom he later identified as Steven LANDIS) moved up onto the curb.

MOYER related that the male was waving his arms wildly, motioning for him to keep moving and appeared annoyed and/or upset (crossed arms). MOYER indicated that he notified dispatch of his location and contact with this individual and requested back-up. MOYER further described that he just had a feeling in his gut that something wasn't right.

MOYER stated that he then heard Officer POLIZZOTTO indicate that he was en-route as back-up. He then started to make conversation with LANDIS, asking where he was coming from. LANDIS replied that he was coming from "Kelly's Inn." MOYER related that he knew that Kelly Inn is a bar nearby (1-2 miles away). MOYER also recalled that LANDIS mentioned his sister's house (near Topper Street).

MOYER remembered that LANDIS said that he was out for a walk to get his head right. MOYER thought that this phrase was a "red flag." He expounded by explaining that he took that to mean that something had occurred with LANDIS earlier in the day that caused him to need to get his head right. He related that he based his concern on training he has had (he is a negotiator for the Quick Response Team).

MOYER explained that the fact that LANDIS had appeared annoyed/agitated and was trying to get his head right had raised his concern. MOYER continued questioning LANDIS and offered him a ride due to the rain. LANDIS refused the offer and said he wanted to walk. MOYER recalled that as they were speaking LANDIS was about 3-4 feet away. At some point during the conversation LANDIS moved closer and to MOYER's left. MOYER related that he stepped back since LANDIS was stepping "into his space." MOYER related that LANDIS did this twice and that this raised his concern about LANDIS even further.

MOYER also recalled that he noticed a large cut on LANDIS's left finger. MOYER related that he questioned LANDIS on the cut and how he received it. LANDIS replied that one of his cats must have scratched him. MOYER interpreted that response as a lie as it seemed implausible that a cat could cause that injury. MOYER indicated that the injury and deceptive behavior also raised his concern.

MOYER then indicted that LANDIS voluntarily handed over his driver's license. MOYER checked LANDIS for warrants by calling dispatch. He recalled that Officer LEER then communicated via radio and related that Northern York County Regional PD (NYCRPD) was looking for LANDIS due to an earlier domestic assault. Dispatch then confirmed to MOYER that LANDIS had an active warrant and they termed it "felonious restraint." Officer LEER then clarified that NYCRPD was looking for LANDIS and had charges for simple assault and unlawful restraint. MOYER related that his radio was attached at his chest and it is possible that

LANDIS overheard the radio traffic.

MOYER related that LANDIS's scratch, his furtive movements during conversation, combined with the information about the warrant for assault caused him even greater concern. MOYER explained that the warrant for unlawful restraint meant to him that someone had been held against their will and a weapon was possibly involved because of the simple assault charge.

About this time, MOYER observed Officer POLIZZOTTO arrive on scene. MOYER then indicated that he decided to take LANDIS into custody based upon the warrant. He approached LANDIS and LANDIS asked for his license back. MOYER related that he told LANDIS that there was a warrant for his arrest and that he should place his hands behind his back. MOYER indicated that LANDIS asked "for what?" MOYER then replied that it was a criminal warrant and he needed LANDIS to place his hands behind his back. MOYER stated that he reached for LANDIS's right arm. MOYER related that LANDIS said "no" and raised his hands up above his head.

MOYER indicated that all these facts (his "gut" instinct, the agitated behavior, knowledge of the arrest warrant, etc.) came together and combined with LANDIS saying "no" and placing his hands over his head. MOYER related that in his law enforcement career he has never had someone put their hands over their head when he instructed them to place their hands behind their back. MOYER related that he interpreted from that action that LANDIS was not going to comply and that he was not going to be taken into custody easily (likely fight or struggle).

MOYER related that he told LANDIS again to put his hands behind his back. LANDIS then brought his hands down toward his waist but not behind his back. MOYER described that LANDIS's hands were more toward the front of his body and that LANDIS then said "this is ridiculous." MOYER related that LANDIS still failed to comply and that LANDIS's hands were going toward his waistband. MOYER related that he knows it is common for people to carry weapons in their waistband. MOYER indicated that he was now greatly concerned that LANDIS may have a weapon.

MOYER indicated that LANDIS took a step away and pulled his arm away from MOYER. MOYER then decided to take him to the ground. He explained that he did this so that if LANDIS had a weapon, he would not be able to use it as easily. He also felt that if he allowed LANDIS to remain on his feet during the struggle it would make MOYER's firearm, Taser, etc. more accessible to LANDIS.

MOYER related that he pulled LANDIS over his right leg. LANDIS went to the ground, landing on his stomach. MOYER explained that he wanted to take LANDIS to the ground because of all the earlier described circumstances (which culminated in MOYER's concern that LANDIS may fight and/or have a weapon). MOYER also indicated that he feels more comfortable on the ground than in a "stand-up" altercation.

MOYER described that LANDIS landed with his right arm tucked under his body and down toward his waistband. His left arm was stretched out in front of him so that his hand was almost in front of or above his face. MOYER related that he took up a position to LANDIS's left side. MOYER grabbed LANDIS's left hand with his left arm. MOYER's right knee was at LANDIS's lower back and toward his side. His right arm was on the small of LANDIS's back.

MOYER related that he continued to tell LANDIS to place his hands behind his back.

MOYER stated that LANDIS was actively resisting, trying to pull his left arm under his body (or toward his face). MOYER was using his own left arm to attempt to prevent this. The investigator asked MOYER what motion MOYER would expect from LANDIS if LANDIS were to try to comply. MOYER indicated that he would have expected LANDIS to move his arm toward the outside of his body (in a sweeping motion toward his back). MOYER related that he continued to command LANDIS to put his hands behind his back. He indicated that LANDIS replied by saying "no," "Get off me," and "let me up." MOYER related that verbal commands and physical force were not working to get LANDIS handcuffed.

MOYER related that he sensed or saw POLIZZOTTO's K9. MOYER then indicated that he said "I have a dog here; you are going to get bit." MOYER pointed out that he has no actual control over the dog. MOYER related that he had no intention to instruct the dog to bite LANDIS. MOYER related that he thought that the comment would convince LANDIS to put his hands behind his back but that it had no effect and LANDIS continued to struggle.

MOYER then indicated that LANDIS said "get off of me you are hurting me." MOYER could not remember his exact words but thought he told LANDIS "I am going to hurt you even more. You are going to get f'd up." MOYER related that since pulling on LANDIS's arms and verbal commands did not work, his next options were less lethal weapons or compliance strikes.

MOYER admitted that his specific language was inappropriate. He commented that he should have worded it differently by simply explaining to LANDIS that if he did not comply MOYER would result to less lethal weapons and/or compliance strikes. However, in the heat of the moment he used the "F" word. MOYER told me that his intent was to let LANDIS know that he would escalate to physical force since verbal commands were not working.

The investigator asked MOYER why he did not use other force options (baton, Taser, etc.). MOYER responded that he did not think it was prudent to remove his hands from LANDIS because they were controlling his left arm (and preventing it from going under LANDIS's body). MOYER indicated that based upon his experience when hands are tucked under the body it can be very difficult to get them out. MOYER also related that he wanted to keep his knee and right arm in place to keep LANDIS from turning (thereby possibly giving him access to any concealed weapons). MOYER related that he felt that a knee strike (pain compliance strike) was his best option at the time.

The investigator asked MOYER if he had aimed his knee strike at LANDIS's side. He replied that he had. He was then asked why he had aimed at that location. MOYER replied that there is no pressure point or nerve there for pain compliance but that was the area he had available for a strike at the time due to his body position.

MOYER stated that in the academy and in self-defense classes taken within his department he has been taught to use his knees and elbows for compliance strikes. MOYER related that he wanted LANDIS's left hand behind his back. He related that it is human nature that when you are struck, you divert your attention to the painful area (thereby taking attention away from another area). MOYER indicated that he delivered a knee strike to LANDIS's side because he wanted pain compliance so that LANDIS would release his left arm for handcuffing.

MOYER related that immediately after he delivered the knee strike, LANDIS brought his left arm down to his side and he was able to secure it in a handcuff behind his back. MOYER stated that it was not his intention to injure LANDIS or "F" him up (as he had said before).

MOYER explained that he and Officer POLIZZOTTO then started working on LANDIS's right arm. MOYER related that he moved his body toward LANDIS's head. POLIZZOTTO then used his Taser on LANDIS (drive stun, no cartridge). MOYER related that upon the initial application of POLIZZOTTO's Taser, he (MOYER) felt the charge go through his body. MOYER told Officer POLIZZOTTO that he could feel the charge and shortly after POLIZZOTTO moved the Taser's position.

MOYER heard LANDIS yelled out "Ow!" but related that LANDIS immediately complied by placing his right arm behind his back. MOYER indicated that both handcuffs were applied to LANDIS at this point. Later the investigator asked MOYER if LANDIS's right arm was against the curb. MOYER replied that he did not recall if LANDIS's right arm was tight up against the curb. He believed there was some gap. The investigator asked if MOYER thought the curb could have kept LANDIS from getting his right hand out from under his body. MOYER replied that when officer POLIZZOTTO tasered him, LANDIS was quick to pull his arm out and put it behind his back (so no, he did not think the curb kept him from complying).

MOYER related that after they secured LANDIS in handcuffs they were attempting to calm him down since he is still fighting, kicking, and squirming. MOYER pointed out that he was very winded from the effort of the scuffle. MOYER indicated that once LANDIS calmed down they rolled him onto his side and searched him for weapons. None were found.

MOYER stated that he then sat LANDIS up on the curb. He explained that LANDIS fell back onto the grass. MOYER related that he sat LANDIS up on the curb again. At this point, LANDIS told the officers that he wears hearing aids. MOYER related that that was the first time he realized that LANDIS had hearing aids. MOYER then realized that one of the hearing aids had fallen out during the struggle. MOYER stated that he found it and did not feel confident in putting it in LANDIS's ear so he packaged it with LANDIS's other belongings (which went with him to central booking).

MOYER recalled that he told LANDIS again that there was an arrest warrant and asked LANDIS if he fought with his wife that night. MOYER remembered that LANDIS shook his head and put his head down in response.

Officer MOYER related that LANDIS told him that he had a pre-existing back injury. MOYER stated that LANDIS never said he was injured and never said he wanted an ambulance. MOYER related that the only injury he saw on LANDIS was a scrape across his head. MOYER indicated that he never heard LANDIS moaning or groaning in pain. He also observed that LANDIS was breathing fine.

MOYER related that they helped LANDIS up and walked him to the patrol vehicle. Since Northern York County Regional PD (NYCRPD) wanted to take custody of LANDIS they agreed to meet up at a nearby Sheetz. NYCRPD then took custody of LANDIS and belongings. MOYER related that he believed that NYCRPD could have LANDIS medically cleared prior to

booking since they were taking custody of him. MOYER indicated that he then typed charges for resisting arrest (that night) and faxed them to booking since he knew LANDIS was taken there by NYCRPD based on the arrest warrant.

MOYER stated that he saw a scrape or brush-burn on his forehead and/or side of his face. He explained that he did not observe any other injuries (except for the scrape he noted on LANDIS's finger prior to the arrest). MOYER stated that LANDIS never complained of other injuries (except for his pre-existing back pain). MOYER stated that he did not take LANDIS to the hospital because NYCRPD took custody of him and he assumed they would complete that task if necessary.

The investigator then briefed MOYER on the conversation that was on the video at minute 27:44. The investigator asked MOYER if he recalled that conversation. He replied that he did not recall it. The investigator then asked if he knew what was being referred to. He replied that he did not.

The investigator then briefed MOYER on the conversation that I heard on the video at minute 30:55. The investigator then asked MOYER what had occurred. He replied that the officers were giving instructions to LANDIS and he started squirming and was not complying. MOYER related that he got upset at LANDIS for not staying still while changing out the handcuffs.

The investigator then reminded MOYER that he had a discussion with Officer POLIZZOTTO where they appeared to be discussing if they should charge LANDIS with resisting arrest. MOYER was asked about this conversation. He explained that charging LANDIS with resisting arrest was a "no-brainer." He explained that they were discussing the possibility of also charging Disorderly Conduct and trying to decide whether to file charges immediately or later. He denied that they were discussing whether or not to file resisting arrest charges.

The investigator also asked MOYER if he turned the audio off and if so, why. MOYER replied that he may have turned the audio off but explained that LANDIS was gone and the incident was over. MOYER stated that he doesn't have anything to hide and pointed out that he let the audio/video run for the rest of the incident.

MOYER was asked if he had anything further to add and he did not. His attorney then asked MOYER if LANDIS was pacing when he first encountered him on Eden Road. MOYER replied that yes, he was. His attorney then asked if LANDIS was talking to himself. MOYER replied that yes, he was. His attorney then asked if MOYER suspected mental illness or intoxication. MOYER replied that he suspected either one or a combination (especially since LANDIS told him he was coming from a bar). MOYER related that these suspicions also concerned him.

MOYER's attorney also pointed out that when LANDIS sat on the curb, he fell back. He asked MOYER if LANDIS was attempting to stand up. MOYER replied that it was a possibility. MOYER's attorney then asked if LANDIS ever said his ribs hurt or that the officers hurt his ribs. MOYER replied that he did not. MOYER's attorney asked if LANDIS was referring to his wrists/handcuffs when he stated "you are hurting me." MOYER replied that yes, he was probably referring to his wrists. MOYER's attorney asked if LANDIS ever referred to a specific body part. MOYER replied that LANDIS did not refer to a specific body part. MOYER's attorney also asked if LANDIS ever blamed the officers for hurting him or asked to go to the

hospital. MOYER replied that no, he did not do either. Finally, MOYER's attorney asked why MOYER did not take LANDIS to the hospital. MOYER replied that he did not think that LANDIS was hurt.

ARREST PHOTOS:

The arrest photos of STEVEN LANDIS taken at Northern York County Regional Police Department (NYCRPD) were obtained as part of the investigation. The photos appear to depict abrasions to LANDIS's forehead, right temple, and right upper cheek area.

TRAINING RECORDS – MUNICIPAL POLICE OFFICERS’ EDUCATION AND TRAINING COMMISSION (MPOETC):

As part of the investigation the training records of Patrolman MOYER and Patrolman POLIZZOTTO were obtained from the Municipal Police Officers' Education and Training Commission (MPOETC). The records included:

Information specific to Patrolman MOYER:

- Certification Number 38155
- Started Employment on 07/07/08
- Attended Harrisburg Area Community College Police Academy from 07/07/08 through 11/21/08

Information specific to Patrolman POLIZZOTTO:

- Certification Number 28216
- Started Employment on 11/12/01
- Attended Lackawanna College Police Academy from 03/1997 through 06/1997

Also reviewed was:

- A list of training courses taken by each officer. Both have completed numerous training courses including specific training for Use of Force.
- The curriculum/lesson plan for Use of Force training at MPOETC was reviewed and includes a core module on Decision Making scenarios.

SPRINGETTSBURY TOWNSHIP POLICE DEPARTMENT CASE FILE:

Springettsbury Township PD provided a copy of their case file. It is notable that the officer's original reports contain references to all the use of force that is alleged and seen in the video. It is also notable that the taser download indicates a one (1) second burst on the date in question

at 9:48 p.m. (12 minutes prior to the start of Officer POLIZZOTTO's shift). A second five (5) second burst is recorded at 11:30 p.m. and is consistent with POLIZZOTTO's statement that he only used the taser one time during the altercation. It is also notable that LANDIS's booking photo appears to depict various facial abrasions.

CRIMINAL DOCKETS: The investigator obtained York County Criminal Dockets (three) for Steven LANDIS. The first docket (6530-2012) shows that Steven LANDIS was charged with Resisting Arrest by Officer MOYER (in relation to this incident). The Court, at trial, found as a fact that the LANDIS had a valid warrant for his arrest, and was commanded by the police to place his arms behind his back. The court found as a fact that that almost simultaneously Mr. Landis's arms went up in the air. In its finding, the court said "we can't conclude that placing the arms, after the command was given to place his arms behind the back, placing the arms down and out is of sufficient resistance that would constitute the crime of resisting arrest." LANDIS was ultimately found not guilty of this charge at trial. The Court, having expressed reasonable doubt as to whether the Commonwealth had established a violation of the resisting arrest statute, found Mr. Landis and not guilty.

The second docket (6714-2012) shows that Steven LANDIS was charged with Unlawful Restraint, 2 counts of Simple Assault, and Harassment by Northern York County Regional PD. These charges were the basis for the arrest warrant that Officer MOYER attempted to serve on 08/05/12. LANDIS ultimately pled guilty to one count of Simple Assault.

The third docket (7459-2012) shows that Steven LANDIS was charged with Recklessly Endangering Another Person and Reckless Driving by Northern York County Regional PD. These charges also have an offense date of 08/05/12 and appear to be related to the events that transpired prior to this incident. LANDIS ultimately pled guilty to Recklessly Endangering Another Person.

I have also attached a transcript, order, and plea/sentence for the above cases. These documents simply provide further detail into the information listed above (Refer to Attachments #17, #18, and #19).

MOBILE VIDEO RECORDER FOOTAGE: As part of the investigation, Springettsbury police turned over to the Pennsylvania State Police investigator the mobile video recorder (or "dash-cam") footage of the relevant portion of this incident. The entirety of the footage was reviewed by both the investigator and the author and portions of it have previously been released to the media by counsel for Mr. Landis. Notable points of interest as found by the investigator are as follows:

Time:	Note:
01:35	Officer MOYER comes upon Steven LANDIS on Eden Road.
02:12	Officer MOYER approaches LANDIS on foot and engages his microphone.
02:50	LANDIS offers MOYER his driver's license to look at.
05:11	Officer MOYER offers to call a ride for LANDIS because of the coming rain. LANDIS declines the offer.
05:31	MOYER asks LANDIS if he has any warrants and LANDIS replies "none that I know of. You can look."

05:45	MOYER asks dispatch to check for warrants on LANDIS.
06:36	Dispatch tells MOYER that a warrant exists for LANDIS (domestic related assault).
07:35	MOYER informs LANDIS that there is a warrant for his arrest and asks him to put his hands behind his back. LANDIS immediately raises his hands in the air. MOYER grabs LANDIS's right arm and again tells LANDIS to put his hands behind his back.
07:42	LANDIS replies "that's ridiculous" and appears to take a step away from MOYER. MOYER then performs a leg sweep and takes LANDIS to the ground. Officer POLIZZOTTO approaches. MOYER appears to be on top of LANDIS's upper body. POLIZZOTTO appears to be on top of LANDIS's legs. Smaller details of the altercation are obscured by Officer's POLIZZOTTO's body.
07:51	LANDIS exclaims "you're hurting me." MOYER responds "yeah, well I'm gonna hurt you more." MOYER repeatedly orders LANDIS to put his hands behind his back.
08:08	The officers appear to be struggling with LANDIS. MOYER says "I'm telling you, you're going to get fucked up."
08:10	MOYER strikes LANDIS with his right knee to what appears to be LANDIS's left side.
08:30	MOYER states "Ah, you got me Bill" (it appears he is referring to the taser).
08:33	LANDIS screams (presumably from the taser deployment).
08:39	POLIZZOTTO tells LANDIS, "put your other hand behind your back or you're going to get it again."
08:58	It appears that the officers succeed in getting LANDIS handcuffed.
10:08	Officer MOYER repeatedly tells LANDIS to calm down and stop fighting. He tells LANDIS he is going to roll him onto his right side. POLIZZOTTO warns LANDIS "if you act up, you're going to get bit, do you understand?"
10:17	The officers disengage from LANDIS. LANDIS falls backward onto the ground by the curb.
10:27	Officer MOYER sits LANDIS up on the curb and tells him, "Sit, stay."
10:31	LANDIS says "I'm sorry man."
11:00	POLIZZOTTO places his K9 back in his vehicle.
11:45	Officer LEER arrives on scene. He leaves to look for LANDIS's vehicle at 15:45.
12:56	LANDIS is placed in the patrol vehicle. He can be heard complaining about his back and saying "that hurts."
14:08	Officer MOYER considers calling an ambulance to look at LANDIS but the officers decide that they can let that up to Northern York County Regional Police.
19:35	Officer MOYER begins transporting LANDIS.
20:14	Officer MOYER appears to turn on the back seat camera. LANDIS can be seen/heard wincing in pain.
22:00	Officer MOYER arrives at the Sheetz to await NYCRPD.
23:15	Officer POLIZZOTTO remarks to MOYER "I couldn't see you going for cuffs because you were still trying to control his arm."
24:05	Officer LEER arrives at the Sheetz. He leaves at 24:28.

26:00	NYCRPD arrives at the Sheetz.
27:44	Although difficult to hear, it appears that Officer LEBO (NYCRPD) says "that's pretty." It appears that MOYER laughs in response. Officer LEBO then asks "is that new?" POLIZZOTTO appears to say "a little bit." Officer LEBO says something that is indecipherable. MOYER responds "about 20 minutes old."
30:55	LANDIS is removed from the vehicle. Officer MOYER can be heard telling LANDIS to lean over the car. LANDIS can be heard stating "you're hurting me." MOYER replies, "You're right... and you haven't fucking learned yet. So do it."
32:20	Sounds indicate that LANDIS is placed in the NYCRD vehicle.
32:58	MOYER and POLIZZOTTO discuss resisting arrest charges. MOYER asks "is it worth it?"
33:12	The audio portion is turned off. The video continues.
37:08	The video ends as it appears Officer MOYER starts to drive away.

- Note: It should be noted that conversation is calm and polite by MOYER and LANDIS up until 07:35.
- Note: Throughout the struggle LANDIS repeats that the officers are hurting him, being rough, and asks to be allowed up. The officers repeatedly give commands for LANDIS to place his hands behind his back.

MEDICAL RECORDS:

Mr. LANDIS, through his attorney agreed to permit the investigator's obtaining his medical records. Mr. LANDIS received medical treatment (pertinent to this investigation) at the following locations:

- Dr. Eric Barr, D.O. (54 Forrest St., York, PA 17404, 717-792-1811)
- Memorial Hospital (325 South Belmont St., York, PA 17403, 717-849-2351)
- Dr. Scott Cherry, M.D. (955 S. George St., York, PA 17403, 717-846-3457)

DR. ERIC BARR (8/6/12):

The records indicate that LANDIS sought medical treatment at Dr. BARR's office on 08/06/12 (the day after the incident). The following are excerpts of interest from the medical record:

Page 2 Prescribed Vicodin tablet(s) for pain.

Page 2 "c/o body ache generalized, especially on the left ribs."

Page 2 "multiple abrasions on the right face/forehead area."

Page 2 "Lungs: clear to auscultation bilaterally but diminished due to inability to take a deep breath due to the pain."

Page 2 "Skin: open wounds on the right great toe, left medial MTP area, right side of face and across the forehead with abrasion. Also with a small open wound on the left hand "dorsum)."'

Page 4 This page appears to be an X-ray review by the Radiologist (08/06/12): "The visualized ribs demonstrate lateral left rib fractures from seventh through ninth ribs. There is associated pleural effusion and probable atelectasis noted at the left lung base..."

MEMORIAL HOSPITAL (8/8/12 -8/12/12):

The records indicate that LANDIS then reported to the Emergency room at Memorial Hospital on 08/08/12. The following are excerpts of interest from the medical record:

Page 7 LANDIS is admitted to "2 West General Medical Floor" at York Memorial hospital for 23 hour observation (on 08/08/12).

Page 7 LANDIS is prescribed Morphine for his pain.

Page 8 LANDIS is discharged on 08/12/12 "improved and stable."

Page 12 "the patient's family is in the room upon interview and states that he may be "withdrawing from Paxil."

Page 13 "Comminuted fractures were noted anterolaterally at the 6th, 7th, and posteriorly non-displaced fractures were noted of the 9th, 10th, and 11th, ribs.

Page 15 This page appears to be a 2nd X-ray review by the Radiologist (08/09/12). "There are rib fractures laterally on the left from ribs 7 through 10. There is increasing left basal opacity which could reflect pleural effusion."

The records indicate that LANDIS was attended to by hospital personnel and admitted on 08/08/12. He was discharged on 08/12/12. It should be noted that the record is nearly identical to Dr. BARR's medical records (summary below). It appears that Dr. BARR's office incorporated many of the Memorial Hospital records into their records.

In summary, the Memorial Hospital medical records document all of LANDIS's medical conditions, but specifically the fact that he was diagnosed with multiple left rib fractures. He was treated at the hospital for pain associated with the fractures for several days before being discharged.

DR. ERIC BARR (8/13/12):

The records indicate that LANDIS then went back to Dr. BARR on 08/13/12. The following are excerpts of interest from the medical record:

Page 17 Prescribed to continue Vicodin, Paxil, and other medications.

Page 17 "has 5 broken ribs, constant pain 6/10. Has significant bruising on the left side due to this down to the abdomen and in the chest area."

Page 19 A third X-ray report (08/20/12) documents lingering residual effects of the rib fractures.

DR. ERIC BARR (8/22/12):

The records indicate that LANDIS then went back to Dr. BARR on 08/22/12. The following are excerpts of interest from the medical record:

Page 20 Vicodin is refilled. Paxil is increased. Some other medications also continue.

Page 20 “continuing to have significant pain (6/10 or more)”.

DR. ERIC BARR (10/22/12):

The records indicate that LANDIS then went back to Dr. BARR on 10/22/12. The following are excerpts of interest from the medical record:

Page 24 Continue Vicodin and Paxil (among other medications).

The records indicate that LANDIS then went back to Dr. BARR on 01/24/13 and 05/30/13.

DR. SCOTT CHERRY:

These medical records consisted only of two letters written by Dr. CHERRY. The first letter was addressed to Dr. BARR (above) on 11/06/12. The letter indicates that LANDIS was diagnosed with Huntington’s disease and prescribed Xenazine for the condition.

The letter also points out that some of the symptoms of Huntington’s disease are involuntary movements and uncontrollable anger. Dr. CHERRY documents that the medication seems to have improved LANDIS’s symptoms with the exception of his behavior (uncontrollable anger). The letter specifically references an “episode” that LANDIS suffered when dealing with a divorce attorney.

The second letter was addressed to Robert SCHEFTER (an attorney with The Senft Law Firm) and was written on 01/16/13. The letter addresses the fact that LANDIS was not admitted to a York County mental health court program. **Dr. CHERRY’s opinion, expressed in the letter, indicates that LANDIS’s Huntington’s disease did, in fact, contribute to the events that occurred on 08/05/12.** He points out that Huntington’s disease causes effected individuals to have difficulty controlling their behavior and emotions. Their response to a stressful condition is often “out of proportion to the situation.”

EXPERT OPINION: As a key component of the investigation, the police “dash-cam” footage from this incident was submitted for expert review. In the past, when concerns about police conduct has occurred, the Pennsylvania State Police Internal Affairs Division has used Sgt. Charles Mory (PA State Police – Academy) for review of use of force video/audio. His professional opinion of how the conduct relates to police academy instruction is then sought.

Sgt. Mory is certified (MPI #1035, expires 03/31/14) to teach “Application of Force” in the Pennsylvania Basic Training Program (otherwise known as “Act 120 Training”). Because of this certification, the investigator and this author believed he would be able to apply the officers’ training to the submitted video and render a professional opinion as to the appropriateness of their actions.

Sgt. Mory was provided with a copy of the police “dash-cam” footage from this incident. He agreed to review the video and to render an opinion. No details of the case were provided to Sgt. Mory other than the police “dash-cam” footage. Sgt. Mory exclusively reviewed the video

without access to medical records, interviews, or other details of the case.

Sgt. Mory's written opinion of the officer's actions and how it related to the use of force training that he is certified to provide together with the resume of his training and experience is attached. His conclusion was that the officers acted reasonably under the totality of the circumstances.

Sgt. Mory's opinion in pertinent part is as follows:

It is my opinion that the actions of the 2 involved Springettsbury police officers and their police K-9 were consistent with accepted law enforcement theory practices, training, and MPOTEC standards in the Commonwealth of Pennsylvania.

Investigative and assessment actions on-scene by the initial contact officer indicated unusual behavior and an outstanding warrant on the subject, Steve Landis. A warrant promotes immediate officer caution and concern indicating a possible "threat".

The contact officer moved quickly to arrest and control the subject upon confirming the identity and warrant, with the arrival of a backup officer and his canine. Multiple force options were used by both officers, including displacing the subjects balance to take him to the ground for handcuffing. It appears that both officers perceived resistance and a threat from the subject as they struggled to get his hands behind his back for handcuffing.

The contact could have been handled more effectively if a coordinated arrest effort had occurred with more verbal communication prior to taking the "hearing deficient" subject to the ground.

Ultimately, the arrest was culminated, but better force option choices, tactics, and verbalization of commands could have prevented the initial struggle with Landis, during the encounter.

My conclusions: In light of the United States Supreme Court case, *Graham v. Connor*, 490 U. S. 386 (1989), the two officers who used force in this incident did so reasonably under the totality of the circumstances confronting them. Their perceptions and actions were reactionary in nature and their force options, although poor choices, must be weighed against officer perceived threats, the volatility and fluidness of the situation, the need for immediate control, and sustained injuries. The actions of the two officers contained the subject with minimal injury.

Statement of the Question and Applicable Law as applied to the Facts

At issue is whether the facts surrounding the event previously described justify the filing of criminal charges against Officer Moyer, Officer Polizzotto, or both. More specifically, is the charge of either harassment or simple assault against one or both officers appropriate.

Under the Crimes Code 18 Pa.C.S.A. § 2701 a person is guilty of simple assault if he attempts to cause, or intentionally, knowingly, or recklessly causes bodily injury to another. Bodily injury is defined in 18 Pa.C.S.A. § 2301 as impairment of physical condition or substantial pain.

A person commits the crime of harassment, 18 Pa.C.S.A. § 2709, when, with the intent to harass, annoy or alarm another, the person strikes, shows, kicks, or otherwise subjects the other person to physical contact or attempts or threatens to do the same.

To determine whether criminal responsibility exists in use of force situations several factors must be considered. These factors include but are not limited to, the totality of the factual circumstances of the case, the United States and Pennsylvania constitutions, the Pennsylvania crimes code and the general principles of justification set forth therein, applicable case law,

The fourth amendment requires peace officers to use only an amount of force that is objectively reasonable in light of all the surrounding circumstances. Graham versus Connor, 490 U. S. 386,397 (1989). Assessing the level of permissible force "requires a careful balancing of the nature and quality of the intrusion on the individual's fourth amendment interests and the countervailing government interests at stake." The calculus of reasonableness must embody allowance for the fact that police officers are often forced to make split-second judgments in circumstances that are tense, uncertain, and rapidly evolving – about the amount of force that is necessary in a particular situation." Graham versus Connor 490 U.S. at 396 – 397. With respect to a claim of excessive force the standard of "reasonableness at the moment applies:" Not every push or shove, even if it may later seem unnecessary in the piece of a judge's chambers, violates the fourth amendment. Nor is it a violation of the fourth amendment that the officer used more force than was necessary so long as he reasonably believed it to be immediately necessary.

Pennsylvania embodies the test of reasonableness in providing latitude to police officers. The applicable statute is found at 18 Pa.C.S.A. § 508 (a) (1):

A peace officer, or any person whom he has summoned or directed to assist him, need not retreat or desist from efforts to make a lawful arrest because of resistance or threatened resistance to the arrest. He is justified in the use of any force which he believes to be necessary to affect the arrest and of any force which he believes to be necessary to defend himself or another from bodily harm while making the arrest.

To establish the elements of either criminal charge however, the Commonwealth must go beyond a fourth amendment analysis and focus and prove the intent of the actor. Was he acting in good faith or were his actions malicious and sadistic?

The medical indications are that Mr. Landis suffered 5 simple fractures of his ribcage during the encounter. Interestingly, Mr. Landis acknowledges while he had pain, it was his opinion that an old back injury had been aggravated and he never complained to the officers of rib pain. This was confirmed by the officers. It was felt by the officers that because of the minimal nature of what was being expressed, that the Mr. Landis could be taken for any treatment by the Northern York County Regional Police if necessary once Mr. Landis was given to their custody. When presented with that opportunity, Mr. Landis declined offers of medical treatment extended by both Officer Lebo as well as Sheriff's deputies at booking. Nor was injury apparent to Sgt. Lebo who viewed the tape and to whom it appeared that Mr. Landis sustained "minimal injury."

What is clear is that Mr. Landis was perceived as a potential threat by the officers because of the information known to them and that they were on their guard. Officer Moyer indicated that Mr. Landis "appeared annoyed and/or upset (crossed arms)" at the time he initiated the stop. Officer Moyer further described that he just had a feeling in his gut that something wasn't right and called for backup. This was independently confirmed by Officer Polizzotto who related that hearing the transmissions, "he could immediately tell by the tone of Officer Moyer's voice that he should respond to back him up. When he heard Officer Moyer actually ask for backup, Officer Polizzotto increased his response speed."

The concern of Officer Moyer was heightened by his continued interaction with Mr. Landis. During conversation, Mr. Landis related he had been out at a bar and was walking in the rain to "get his head right." Officer Moyer perceived these statements as a "red flag." Also of concern was that during the conversation, on several occasions, Mr. Landis moved closer to the Officer Moyer. In the officer's words, Mr. Landis was repeatedly stepping "into his space". Also noticed by Officer Moyer was a large cut on the finger of Mr. Landis. Inquiry was made as to how it was received, and the Officer's perception was that he was being lied to.

Finally, it was learned by the Officer that Mr. Landis had a warrant for his arrest relating to a domestic assault which had occurred earlier that day it was termed by 911 dispatch as "felonious restraint." The officer's perception was that Mr. Landis had heard the dispatch and perhaps a weapon had been involved.

Mr. Landis was advised that there was a warrant for his arrest and he should place his hands behind his back. He was told this several times. Officer Moyer related that instead of complying Mr. Landis moved his hands towards the front of his body. Officer Moyer's gut instinct told him that Mr. Landis may have a weapon in the front of his pants. Officer Moyer then reached for Landis's right arm Mr. Landis said "no" and simultaneously raised his hands above his head.

Mr. Landis said that he heard Officer Moyer tell him to put his hands behind his back. Landis was asked if he complied and put his hands behind his back. He replied "no, I had started to. What I did first, I put my hands above my head." The investigator asked why he put his hands above his head despite the command to place them behind his back. Landis replied that he did not know why. Landis was asked if there was a reason why he didn't put his hands behind his back like Officer Moyer asked him to. Landis replied no, there was not.

At that point officer Moyer conducted a leg sweep and took Mr. Landis to the ground. Mr. Landis landed on his stomach with his right arm tucked under his body. Officer Moyer repeatedly commanded Mr. Landis to put his hands behind his back and attempted to control the right arm of Mr. Landis. Landis responded by saying "no", "get off me" and "let me up" and continued to struggle.

At that point Officer Polizzoto threatened to use the K-9, and officer Moyer threatened Mr. Landis with continued use of force unless he complied. The language, which included profanity by Officer Moyer was clearly inappropriate. When these threats brought no results officer Moyer used a pain compliance strike with his knee in accordance with his training. At that point Officer Moyer was able to handcuff the left arm of Mr. Landis. The right arm of Mr. Landis remained under his body until Officer Polizzoto used his taser at which point Mr. Landis pulled his right arm out from underneath his body and put it behind his back. Shortly thereafter Mr. Landis calmed down, was searched for weapons, and placed on the curb.

Mr. Landis in his interview was confused about exactly where his arms were during the altercation and also claimed that he was not handcuffed while on the ground. He thought that maybe he had one handcuff on while sitting on the curb and the other was placed on him at the police vehicle. This is clearly not the case.

Of interest is the issue of Huntington's disease. Mr. Landis described that a symptom of Huntington's disease is that it can cause angry reactions and that he now takes medication for this disease. Dr. Cherry opined in a letter to Mr. Landis's attorney that "Huntington's disease did, in fact, contribute to the events that occurred on August 5, 2012. Also pointed out in the letter was that Huntington's disease causes affected individuals to have difficulty controlling their behavior and emotions. Their response to a stressful condition is often "out of proportion to the situation".

Conclusion

In the instant case, the issue is whether the force that was used by the officers was unreasonable under the circumstances. With regard to the mental state of the officers, both officers had ample reason to be concerned about their safety during the encounter. When Mr. Landis failed to comply with the request of Officer Moyer to place his hands behind his back, and instead took action in contradiction to the request of the officer, Officer Moyer was justified in using such force as necessary to force compliance. His use of the leg sweep was not unreasonable under the circumstances. Once on the ground, the concerns of both officers regarding the possible possession of a concealed weapon in the area of Mr. Landis's hands, and the refusal of Mr. Landis to place his hands behind his back in compliance with the officers demands, makes the use of the taser and compliance strike reasonable. This was confirmed by the police expert in use of force. Although the use of profanity by a professional police officer should never be condoned, the officers were justified in the amount of force used in this encounter to make the arrest. Accordingly, the conduct of the Officers does not merit the filing of criminal charges.

The matter is now closed.